

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
LAWRENCE W. HAMMARE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-30155 MAP
	)	
THE PRUDENTIAL INSURANCE	)	
COMPANY OF AMERICA, and	)	
T-MOBILE USA, INC.,	)	
	)	
Defendants.	)	
_____	)	

**THE PARTIES' PROPOSED PRE-TRIAL SCHEDULE  
PURSUANT TO LOCAL RULE 16.1(D)**

Pursuant to L.R. 16.1(B), the undersigned state that they have conferred for the express purpose of preparing a proposed pre-trial schedule for the case that includes a plan for discovery. Based on their conference, the parties submit the following schedule for the Court's consideration:

1. Initial disclosures served shall be served by October 31, 2005.
2. All written discovery, including requests to admit pursuant to Rule 36, shall be served by November 30, 2005.<sup>1</sup>

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<sup>1</sup>/ The plaintiff's claim relates to an employee benefit plan governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001 *et seq.* The defendants contend that the Court's review is limited to ascertaining whether the final benefit determination is supported by substantial evidence in the record. Substantial evidence review of an ERISA benefits decision is generally limited to the administrative record before the claims administrator when the final decision was rendered. *See Lopes v. Metropolitan Life Ins. Co.*, 332 F.3d 1 (2003); *Liston v. Unum Corporation Officer Severance Plan*, 330 F.3d 19 (2003). Since this action involves judicial review of an administrative record that the defendants have agreed to produce to the plaintiff, the defendants maintain that no further discovery is warranted.

3. All party fact depositions shall be completed by January 31, 2006.
4. The parties shall file a proposed Record for Judicial Review (“Record”) by March 1, 2006. The Record shall include those documents that the parties agree are properly part of and are to be included in the administrative record. The Record shall also include additional documents sought to be included in the administrative record, to which the parties cannot agree.
5. The parties shall serve their motions to supplement the Record, if any, by March 15, 2006. Oppositions to motions to supplement the Record shall be served by March 31, 2006.
6. All experts who may be witnesses on behalf of plaintiff shall be designated in accordance with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Massachusetts by May 1, 2006.
7. All experts who may be witnesses on behalf of defendant shall be designated in accordance with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Massachusetts no later than June 1, 2006.
8. All expert depositions shall be completed by August 1, 2006.
9. Dispositive motions, motions for leave to add parties and motions to change venue shall be filed by September 1, 2006.

10. Any Settlement Conference shall be held in accordance with the Court's schedule, after dispositive motions are decided.

11. A Final Pretrial Conference shall be held thereafter in accordance with the Court's schedule.

a. Phased Discovery: After consideration, the parties have determined that conducting phased discovery would be neither beneficial, nor desirable in this matter.

THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA,  
By its attorney,

T-MOBILE USA, INC.,  
By its attorneys,

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LAWRENCE W. HAMMARE,  
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Dated: September 9, 2005